

**ORIGINAL**  
**OPEN MEETING AGENDA ITEM**



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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

**DOCKETED**

MAR 4 2011

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**COMMISSIONERS**

GARY PIERCE, Chairman

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PAUL NEWMAN

BRENDA BURNS

2011 MAR -4 P 4: 37

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
ARIZONA WATER COMPANY, AN ARIZONA  
CORPORATION, TO EXEND ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY IN THE CITY OF CASA GRANDE  
AND IN PINAL COUNTY, ARIZONA.

Docket No. W-01445A-06-0199

IN THE MATTER OF THE APPLICATION OF  
PALO VERDE UTILITIES COMPANY FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

Docket No. SW-03575A-05-0926

IN THE MATTER OF THE APPLICATION OF  
SANTA CRUZ WATER COMPANY FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

Docket No. W-03576A-05-0926

IN THE MATTER OF THE APPLICATION OF  
PALO VERDE UTILITIES COMPANY FOR AN  
EXTENSION FO ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

Docket No. SW-03575A-07-0300

IN THE MATTER OF THE APPLICATION OF  
SANTA CRUZ WATER COMPANY FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

Docket No. W-03576A-07-0300

ARIZONA WATER COMPANY, AN ARIZONA  
CORPORATION,

Docket No. W-01445A-06-0200

Docket No. SW-20445A-06-0200

Docket No. W-20446A-06-0200

Docket No. W-03576A-06-0200

Docket No. SW-03575A-06-0200

COMPLAINANT,  
VS.

GLOBAL WATER RESOURCES, LLC, A  
FOREIGN LIMITED LIABILITY COMPANY;  
GLOBAL WATER RESOURCES, INC., A  
DELAWARE CORPORATION; GLOBAL  
WATER MANAGEMENT, LLC, A FOREIGN

**Global Utilities'**  
**Response to Francisco Grande's**  
**Motion to Re-open the Record**

LIMITED LIABILITY COMPANY; SANTA CRUZ WATER COMPANY, LLC, AN ARIZONA LIMITED LIABILITY CORPORATION; PALO VERDE UTILITIES COMPANY, LLC, AN ARIZONA LIMITED LIABILITY CORPORATION; GLOBAL WATER – PALO VERDE UTILITIES COMPANY, AN ARIZONA CORPORATION; JOHN AND JANE DOES I-20; ABC ENTITIES I-XX,

RESPONDENTS.

IN THE MATTER OF THE JOINT APPLICATION OF CP WATER COMPANY AND FRANCISCO GRANDE UTILITIES COMPANY TO TRANSFER THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY AND ASSETS TO PALO VERDE UTILITIES COMPANY AND SANTA CRUZ WATER COMPANY.

Docket No. WS-01775A-07-0485  
Docket No. SW-03575A-07-0485  
Docket No. W-02442A-07-0485  
Docket No. W-03576A-07-0485

**Global Utilities’  
Response to Francisco Grande’s  
Motion to Re-open the Record**

Global Water – Palo Verde Utilities Company (“Palo Verde”), Global Water – Santa Cruz Water Company (“Santa Cruz”) and CP Water Company (collectively, the “Global Utilities”),<sup>1</sup> respectfully respond in opposition to the Francisco Grande Utility Company’s (“Francisco Grande”) motion to re-open the record.

There are no grounds for re-opening the record. No evidentiary hearing is needed because there are no facts in dispute. No one disputes that Francisco Grande is now owned by Ms. Saunders, and is no longer part of Global. None of Francisco Grande’s CC&N rights are implicated in these dockets.

Francisco Grande asserts that due process requires a new hearing. Unsurprisingly, Francisco Grande cites no legal authority for the proposition that a corporation is entitled to a new

<sup>1</sup> Where the context requires, “Santa Cruz”, “Palo Verde” and the “Global Utilities” also include “Santa Cruz Water Company, LLC” and “Palo Verde Utilities Company, LLC”, predecessor companies. See Decision No. 69920 (Sept. 27, 2007) (approving transfer with retroactive date of January 1, 2006).

1 hearing solely due to a change in ownership. That change of ownership occurred because the  
2 agreement to sell Francisco Grande expired while the Commission was considering these dockets.  
3 Ms. Saunders subsequently attempted to force Global Water, Inc. (Global) to buy her company  
4 anyway; and an arbitration panel rejected her attempt. She should not be allowed to re-litigate  
5 those claims here in the guise of a re-opened hearing in a novel attempt to force Global to buy her  
6 company or to otherwise somehow extract money from Global.

7 It bears repeating: no party has proposed any action that diminishes Francisco Grande's  
8 CC&N. No party proposes, nor does the Recommended Opinion and Order recommend, any  
9 action that would harm Francisco Grande's one and only asset – its CC&N.

10 Francisco Grande states that AWC's and the Global Utilities' proposed planning areas  
11 "could well affect" its property right to its CC&Ns. The fact of the matter is that Francisco Grande  
12 has held those CC&Ns for decades – and yet it has no customers whatsoever. Decades ago, it  
13 received 18 square miles' worth of CC&Ns, and in all that time it has never built any infrastructure  
14 whatsoever, and never again applied for a CC&N extension. So it is hard for the Global Utilities  
15 to understand what "effect" Francisco Grande is concerned about. The testimony at the hearing  
16 was that the planning areas are intended to prevent future disputes between the Global Utilities and  
17 AWC over un-certificated areas.<sup>2</sup> Thus, Francisco Grande's existing CC&N is not affected. Even  
18 if planning areas are approved, the Commission retains full authority in the future to grant or deny  
19 any CC&N extensions in the un-certificated areas.<sup>3</sup> To the extent Francisco Grande objects to any  
20 future CC&N extensions, or should it in the future suddenly decide to begin to offer utility service  
21 and request a CC&N extension, it is free to apply for an extension, or to intervene in opposition.

22 Francisco Grande's existing CC&N rights are not diminished by the planning areas, nor by  
23 any other action contemplated in these dockets. There is no application or evidentiary basis for an  
24 extension of Francisco Grande's CC&N.

25  
26 <sup>2</sup> Ex. G-1 (Symmonds Direct) at 6:5-10.

27 <sup>3</sup> Ex. A-2 (Garfield Rebuttal) at 24:1-10.

1 In its filing, Francisco Grande claims that it has a 42 square-mile wastewater CC&N.<sup>4</sup> That  
2 statement has no basis in fact whatsoever – utilities cannot expand their CC&N areas by mere  
3 assertion, They must follow the Commission’s process. Francisco Grande received water and  
4 wastewater CC&Ns of approximately 18 square-miles in Decision No. 47711 (March 3, 1977). It  
5 has never received a CC&N extension, so it is categorically clear that it does not have a 42 square-  
6 mile wastewater CC&N.

7 The first of these consolidated dockets was filed in 2005. It has been a long and arduous  
8 process for the Global Utilities, Arizona Water Company, the developers who intervened, Staff  
9 and the Hearing Division to reach a Recommended Opinion and Order. Many developers have  
10 been waiting for years for their properties to be included in a CC&N area. There is no reason to  
11 turn back now. No facts are in dispute, and no due process right of Francisco Grande is  
12 implicated. Francisco Grande’s CC&N rights remain unchanged. Ms. Saunders lost her claims  
13 before the arbitration panel; she should not be allowed to re-litigate them here in the guise of a re-  
14 opened hearing.

15 Every single week the news is full of encouraging signs that the economy has begun its  
16 slow return to health – the Commission should not create yet another obstacle to growth in this  
17 state by acceding to the belated and obstructionist claims of a CC&N-only utility with no assets,  
18 no customers, no history of service, and no record of supporting growth. The planning areas that  
19 AWC and Global propose do touch Francisco Grande’s CC&N boundary, but there is 34 years’ of  
20 history showing that company has no interest in or ability to service growth. However, even if  
21 Francisco Grande suddenly changes course and begins to offer utility services, the planning areas  
22 do not trump or subvert or affect the legal fact that only the Commission can decide who serves  
23 which area.

24 Despite all of that, should the Commission still order the record re-opened, the re-opening  
25 should apply only to the 07-0485 dockets, which are the only dockets where Francisco Grande is a

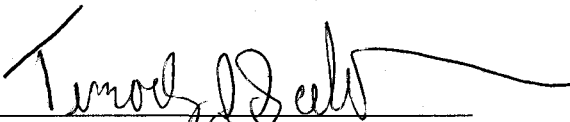
26  
27 <sup>4</sup> Francisco Grande Motion to Re-open at 3:10.

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1 party. Francisco Grande is not a party to the remaining dockets, and those remaining dockets  
2 should be severed and allowed to proceed to open meeting.

3  
4 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of March, 2011.

5 ROSHKA DEWULF & PATTEN, PLC

6  
7 By 

8 Michael W. Patten  
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13 Original + 13 copies of the foregoing  
14 filed this 4<sup>th</sup> day of March 2011 with:

15 Docket Control  
16 ARIZONA CORPORATION COMMISSION  
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19 Copies of the foregoing hand-delivered/mailed  
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